



Adopted in House Comm. on Feb 24, 2010

09600HB4931ham002

LRB096 16786 AJO 37322 a

1 AMENDMENT TO HOUSE BILL 4931

2 AMENDMENT NO. _____. Amend House Bill 4931, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Code of Civil Procedure is amended by
6 changing Sections 2-403 and 2-606 as follows:

7 (735 ILCS 5/2-403) (from Ch. 110, par. 2-403)

8 Sec. 2-403. Who may be plaintiff - Assignments -
9 Subrogation. (a) The assignee and owner of a non-negotiable
10 chose in action may sue thereon in his or her own name. Such
11 person shall in his or her pleading on oath allege that he or
12 she is the actual bona fide owner thereof. An assignee shall
13 identify with specificity how he or she came to acquire title
14 to the chose in action, including the name of the original
15 owner of the chose in action, ~~and set forth how and when he or~~
16 ~~she acquired title.~~ The action is subject to any defense or

1 set-off existing before notice of the assignment.

2 (b) In all cases in which the chose in action consists of
3 wages due or to become due to the assignor thereof from the
4 defendant in the action, at least 5 days' written notice of the
5 pendency of the action shall be served upon the assignor,
6 before the trial of the same. Upon application of the assignor
7 of the chose in action the court shall allow him or her to
8 intervene and be made a party to the action. The assignor, or
9 the defendant to the action on behalf of the assignor, shall be
10 allowed to set up or affirmatively maintain any just setoff,
11 discount or defense which the assignor may have to the
12 assignment of the chose in action, or to the indebtedness, the
13 payment of which is secured by the assignment of the chose in
14 action. The court, by jury or otherwise, shall ascertain the
15 amount of the indebtedness remaining due and unpaid from the
16 assignor to the assignee of the chose in action. The judgment,
17 if any, against the defendant shall not exceed the amount so
18 found to be due and unpaid from the assignor to the assignee of
19 the chose in action. Judgment for the balance, if any,
20 remaining due from the defendant, upon the assigned chose in
21 action, shall be rendered in favor of the assignor and against
22 the defendant in the action or proceeding. The court may enter
23 any order as to costs in the proceeding that may be equitable.

24 (c) Any action hereafter brought by virtue of the
25 subrogation provision of any contract or by virtue of
26 subrogation by operation of law shall be brought either in the

1 name or for the use of the subrogee; and the subrogee shall in
2 his or her pleading on oath, or by his or her affidavit if
3 pleading is not required, allege that he or she is the actual
4 bona fide subrogee and set forth how and when he or she became
5 subrogee.

6 (d) A judgment in an action brought and conducted by a
7 subrogee by virtue of the subrogation provision of any contract
8 or by virtue of any subrogation by operation of law, whether in
9 the name of the subrogor or otherwise, is not a bar or a
10 determination on the merits of the case or any aspect thereof
11 in an action by the subrogor to recover upon any other cause of
12 action arising out of the same transaction or series of
13 transactions.

14 (Source: P.A. 83-707.)

15 (735 ILCS 5/2-606) (from Ch. 110, par. 2-606)

16 Sec. 2-606. Exhibits. If a claim or defense is founded upon
17 a written instrument, a copy thereof, or of so much of the same
18 as is relevant, must be attached to the pleading as an exhibit
19 or recited therein, unless the pleader attaches to his or her
20 pleading an affidavit stating facts showing that the instrument
21 is not accessible to him or her. In pleading any written
22 instrument a copy thereof may be attached to the pleading as an
23 exhibit. In either case the exhibit constitutes a part of the
24 pleading for all purposes. If a written assignment is recited
25 in the complaint, a copy must be provided to the defendant upon

1 request. This Section applies to all actions, including small
2 claims actions.

3 (Source: P.A. 82-280.)

4 Section 98. Applicability. The changes made by this
5 amendatory Act of the 96th General Assembly apply to actions
6 commenced on or after the effective date of this amendatory Act
7 of the 96th General Assembly.".